IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5726 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAIBEN J PATEL

Versus

DISTRICT PRIMARY EDUCATION OFFICER

Appearance:

MR MANOJ N POPAT for Petitioner

MR HS MUNSHAW for Respondent No. 1

Mrs. R.V. Acharya, Ld.GOVT PLEADER for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 24/08/2000

ORAL JUDGEMENT

1. The Petitioner-teacher challenged her apprehended transfer, and when the ad-interim relief was granted on 8-8-1990, it was stated by her that, she would produce the transfer order. The interim relief has been

continued since then, as a result of which the petitioner has successfully thwarted any transfer for over ten years on the strength of the interim order.

2. The respondents have not cared to file any affidavit-in-reply. It is clear that the post which was held by the petitioner was transferable. In the Resolution dated 17-10-1981 of the Government, a copy of which is annexed at Annexure-G to the petition, there is a reference to transfer policy of such primary teachers. The petitioner, therefore, cannot claim that she should perpetually remain at the same place, when transfer was a condition of her service. The counsel for the parties do not even know whether the petitioner is in job today, or has retired. In her letter dated 9-7-1990 at Annexure-D to the petition, she had stated that, she had already put in thirty years of service. Thereafter, more than ten years have been lapsed. Since the petitioner has no legal right to continue for ever at the same place without being transferred, no relief can be granted in this petition. The petition is, therefore, rejected. Rule discharged with no order as to costs. Interim relief stands vacated.

DT: 24-8-2000 (R.K. Abichandani, J)

/vgn.